

SUMMARY OF CHANGES TO EXECUTIVE PROPOSAL IN PROPOSED SUBSTITUTE ORDINANCE 2004-0122, CRITICAL AREAS ORDINANCE

PAGE/LINE	EXECUTIVE PROPOSAL	ISSUES	GMUAC SUBSTITUTE ORDINANCE	RATIONALE
	Allowed Alterations Table			
Starts P. 73, Line 1560	<p>A new section is added that combines into a table the list of alterations that are allowed within landslide hazard areas, steep slopes, wetlands, aquatic areas and severe channel migration hazard areas, wildlife habitat conservation areas and the wildlife habitat networks.</p> <p>This table is a companion to the “Permit Exceptions Table” in the Clearing and Grading Ordinance. (The Permit Exceptions Table outlines activities for which no Clearing and Grading permit is required. It is important to look at both the Allowed Alterations and Permit Exceptions tables when determining conditions applied to an activity.)</p>	<p>Concern that development of last remaining lots around a lake could only be developed through more involved “exceptions” process.</p> <p>Unclear whether an existing residence can be rebuilt within wetland buffer (as in the case of rebuilding after a fire).</p> <p>Numerous questions concerns about whether activities like forest fire prevention, blackberry removal, and firewood collection are allowed activities.</p> <p>Concern that small community groups would not be able to carry out restoration projects without government agency as lead sponsor.</p> <p>Need to ensure consistency with federal and state law for herbicide use.</p> <p>Conditions for repair and maintenance of docks unclear.</p> <p>Many activities not allowed in wildlife areas, even with conditions.</p>	<p>Lake Development: Make construction on remaining lots around densely develop lakes and allowed alteration with conditions. Setbacks would be tied to the category under the Shorelines Master Program.</p> <p>Replacement of Structures in Wetland Buffers: Clarify that this is allowed with conditions.</p> <p>Removal of Vegetation for Fire Safety: Add line for this activity on the Allowed Alterations table. Include specific conditions for wetland and aquatic areas wildfire prevention BMPs.</p> <p>Repair and Maintenance of Docks and Piers: Simplify conditions and reference Shoreline Master Program requirements.</p> <p>Firewood: Delete one-cord limit on firewood gathering in wetland and stream buffers; allow with Rural Stewardship or Farm Plan.</p> <p>Removal of Noxious and Invasive Plants: Clarify use of hand tools and that this activity can also be carried out in wetland and steam buffers in accordance with approved Farm Plan, Forest Management Plan, or Rural Stewardship Plan.</p> <p>Herbicide Use: Reference need for consistency with federal and state law in conditions.</p> <p>Restoration: Revise to enable community group to lead the project in consultation with public agency. Allow for restoration projects in</p>	<p>Clarifies intent of allowed alterations and conditions.</p> <p>Defines a broader range of activities that would not require clearing and grading permits while preventing impacts on other properties and protecting critical areas.</p> <p>Encourages activities like removal of invasive plants and small habitat restoration projects.</p> <p>Provides additional incentives for completing forest stewardship, farm plan, or rural stewardship plan.</p> <p>Enables landowners to deal with public safety issues.</p> <p>Conditions for activities in wildlife areas more consistent with seasonal restrictions in other areas of the ordinance.</p>

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			buffers with Rural Stewardship, Forest Management, or Farm Plan. Wildlife: Specify activities that can be carried out in wildlife habitat conservation areas and wildlife habitat networks.	
	Rural Stewardship Plans			
Starts P. 101, Line 2047	<p>Creates new mechanism for site-specific tailoring of critical areas buffers through a ‘Rural Stewardship Plan.’</p> <p>A rural residential property owner who completes the plan may be able to modify aquatic area, wetland, and wildlife habitat requirements as well as clearing restrictions.</p> <p>The property owner is also eligible to apply for tax benefits through the Public Benefit Rating System.</p>	<p>Standards are too prescriptive, and may not provide the intended level of flexibility.</p> <p>Provisions are too complex and may discourage participation.</p> <p>Need to be able to combine with planning for farm/forest activities.</p> <p>Landowners need up-front technical assistance.</p> <p>Goals should focus on actions being encouraged than actions being restricted.</p>	<p>Revise goals to focus on conditions and activities the county is trying to encourage.</p> <p>Flesh out objectives rather than referring to prescriptions for buffers and clearing.</p> <p>Retain ability use other flexibility tools like buffer averaging.</p> <p>Simplify approach to determining wetland buffer functions (rely on classification using state system rather than establishing separate criteria).</p> <p>Allow people to combine a Rural Stewardship Plan with Farm Plan or Forest Plan.</p>	<p>Flexible objectives (rather than prescriptive standards), greater predictability, and simplicity should make this option more accessible to people who want to tailor environmental protections to their property.</p>
	Public Rules and Technical Assistance for Farm Plans and Rural Stewardship Plans			
Starts P. 104, Line 2121	NA	<p>Need clarification of agency roles and responsibilities.</p> <p>DNRP, DDES, and KCD need to coordinate closely to ensure seamless planning process for landowners.</p> <p>Members and citizens have noted the need for up-front technical assistance.</p> <p>The KCD wants to ensure that their core</p>	<p>Directs DDES and DNRP to adopt public rules consistent with the following:</p> <ul style="list-style-type: none">• The rules shall not compromise the King Conservation District’s mandate or standards for farm management planning.• Technical assistance and resources shall be provided, including web-based information, instructional manuals, model plans, and classroom workshops.• As much as possible, technical assistance shall be provided at little or no cost.	<p>The CAO provisions, particularly for agriculture and rural stewardship plans, are highly dependent on successfully linking programs carried out by DNRP, DDES, and KCD.</p> <p>Technical assistance is also critical to the success of these programs. Model plans will</p>

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		standards for farm planning are retained.	<ul style="list-style-type: none"> DNRP will be the primary county agency contact. Adds reporting requirements for DDES and DNRP. 	<p>help people to decide which path will work best for them: fixed regulations or a Rural Stewardship Plan.</p> <p>Council has a strong interest in ensuring that these programs are carried out consistent with legislative intent.</p>
	Basin Conditions Map			
Starts P. 106, Line 2166	<p>The Basin Conditions Map is used for three purposes:</p> <ul style="list-style-type: none"> To determine the width aquatic buffers that are applied to “high” condition basins within the urban portions of unincorporated King County; To determine the application of wetland complex requirements within “high” conditions basins within the urban portions of unincorporated King County; and To inform decisions about site-specific application of buffers and clearing limits through Rural Stewardship Plans. 	<p>These purposes are not clearly stated in one place in the ordinance.</p> <p>There were also questions about the criteria used to determine basin conditions.</p> <p>The map is applied to both freshwater and saltwater areas. However, original criteria were oriented to freshwater streams.</p> <p>Puget Sound Action Team as expressed concern about the lack of standards tied to saltwater habitats called out for protection in the KCCP, including eel grass beds.</p>	<p>Add clear purpose statements and description of “high,” “medium,” and “low.”</p> <p>Add criteria for saltwater habitat, and update the map (now called Basin and Shoreline Conditions) to be more readable</p>	<p>Clarifies uses of map and ensures that map can be appropriately applied to both freshwater streams and saltwater shoreline.</p>
	Alterations exceptions			
Starts P. 108, Line 2206	<p>Delete Public Agency and Utility Exception and replace with “linear” and “non-linear” exceptions.</p> <p>The “linear” category is more permissive to reflect siting constraints of roads, pipelines, etc.</p> <p>The “non-linear” category is less permissive and includes buildings.</p>	<p>Concern that public school districts can’t meet need for new schools, and that already-purchased school sites will be unbuildable.</p> <p>Concern about having landowners go through exceptions process for development of last remaining lots on a lake.</p> <p>Structure of this section made access to Reasonable Use Exception unclear.</p>	<p>For development on public school sites purchased prior to the effective date of this ordinance, use the conditions applied to linear facilities.</p> <p>For development on public school sites purchased after the effective date of this ordinance, allow alterations to Category III and IV wetlands, but not Category I and II wetlands.</p>	<p>Need to ensure that schools can develop schools sites pursuant to adopted School Facilities Plan. See KCCP Policies R-231 and F-213.</p> <p>Tie future restrictions to the category of wetland. Schools still have to comply with wetland avoidance and</p>

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	<p>Alteration of wetland and aquatic areas (the feature itself) would not be allowed.</p> <p>Reasonable use exception is retained, and lake exception is added.</p>		<p>Move the small lakes criteria to permitted alterations table (i.e. allow lake development under conditions without going through an exceptions process).</p> <p>Restructure to clarify that development standards can be modified if all reasonable use is denied.</p>	<p>mitigation requirements.</p> <p>On lakes with very few remaining un-built lots, risk to critical areas is relatively low, and is minimized by conditions focused on retaining vegetated buffer, updated stormwater requirements, and clearing limits.</p>
	Critical Aquifer Recharge Areas (CARA): Mapping and Classification			
<p>P. 166, Lines 3522 – 3545</p> <p>P. 240, reference to Attachment B</p>	<p>The ordinance defines three categories of CARA based on susceptibility to groundwater contamination, and whether an area is a sole source aquifer or well-head protection area. These categories are mapped, and are the basis for applying CARA standards.</p> <p>Executive proposal calls for future updates to be made by Public Rule.</p>	<p>University of Washington recently completed updated geology mapping for Vashon Island and King County has updated information on well-head locations from the State Department of Health and the water utilities.</p> <p>The CARA map is a substantive attachment to the Ordinance, and adoption of updates by Public Rule would not change the attachment to the Ordinance.</p>	<p>Adopt map updated with the most recent technical information.</p> <p>Require adoption of future updates by ordinance.</p>	<p>Ensures that CARA standards are applied to areas based on up-to-date information.</p>
	CARAs: Development Regulations			
<p>Starts P. 169, Line 3582</p>	<p>The executive proposal outlines specific development regulations for the three different categories of CARA.</p> <p>The standards apply if any portion of a property is within a mapped CARA.</p>	<p>There is concern about the application CARA restrictions to larger parcels where only a small portion is within a mapped CARA.</p> <p>Concern about lack of flexibility on septic requirements for small lots where specific technology listed in ordinance is not feasible on a site.</p> <p>The Vashon Groundwater Protection Committee has requested stricter CARA protections for Vashon-Maury Island.</p>	<p>On a site larger than 20 acres, allow approval of a development proposal if the applicant demonstrates that the development proposal will not cause significant adverse environmental impact to the CARA.</p> <p>Allow more flexibility on approval of septic systems with approval by Dept. of Health.</p> <p>Prohibit underground storage tanks in CARA Categories II and III on islands surrounded by saltwater. <i>(Note: This change would not become effective until it receives required</i></p>	<p>Don't unduly restrict an entire site if the applicant can demonstrate CARA protection.</p> <p>Provide flexibility to work with Department of Health to use alternative technologies for nitrogen removal.</p> <p>Added restrictions on underground storage tanks reflect lack of drinking water</p>

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			<i>state approval</i>). Don't expand special requirements for septic systems to all CARAs at this time.	alternatives on Vashon. Need additional information to determine if increased cost for septic is warranted by risk reduction.
	Wetland Classification			
P. 174, Lines 3703 – 3710	Shift from King County wetland classification system to State Department of Ecology (DOE) Wetland Rating System (1993).	After transmittal of the Executive-Proposed CAO, DOE finalized a revised wetland rating system for Western Washington.	Adopt most recent DOE wetland rating system for Western Washington.	Regulatory consistency with state and neighboring jurisdictions and consistency with BAS.
	Wetland buffers: Rural			
Starts P. 174 Lines 3711 - 3879	Minimum buffers: <ul style="list-style-type: none">• Category I: 300 feet• Category II: 200 feet• Category III: 100 feet• Category IV: 50 feet	<p>“One-size-fits-all” approach for buffers outside the urban area doesn’t allow for consideration of surrounding land uses and actual buffer functions when setting buffer widths.</p> <p>Best Available Science (BAS) documents emphasize shortcomings of fixed buffers, and need to consider basin context.</p> <p>Rural residents have asked the Council to consider buffer approach that reflects past down zoning and lower resulting risk to wetlands in the rural area.</p>	<p>Implement buffers based on State DOE Wetland Buffer Option 3. Buffers are based on combination of classification, intensity of land use, and actual wetland functions (wildlife, water quality, and water quantity).</p> <p>The resulting buffers range as follows:</p> <ul style="list-style-type: none">• Category 1 and 2: 50 to 300 feet• Category 3: 40 to 150 feet• Category 4: 25 to 50 feet <p>Most rural residential development would fall in the middle of these ranges. With a Rural Stewardship Plan, residential development would be given a low intensity rating, which results in lower buffers. Agriculture carried out in accordance with a Farm Plan would also be classified as a low intensity land use.</p>	<p>DOE Option 3 buffers create a more rational and fair approach by recognizing that lower intensity land uses are less likely to impact wetland functions and values.</p> <p>Incorporates BAS findings about shortcomings of fixed buffers and the importance of considering basin context.</p> <p>Provides additional incentives for completing Rural Stewardship Plan.</p>
	Wetland Buffers: Inside Urban Areas			
Starts P. 174 Lines 3711 - 3879	Minimum buffers with assessment and restoration: <ul style="list-style-type: none">• Category I : 100 feet• Category II: 50 feet• Category III: 50 feet• Category IV: 25 feet	<p>The provisions for urban buffers are unclear (the default to larger buffers without restoration is in a different part of the ordinance).</p> <p>The County's BAS review notes that the</p>	<p>Eliminate provision for greatly reduced buffers for affordable housing.</p> <p>Reorganize sections to clarify there is a default to larger buffers in some cases without buffer restoration.</p>	Reduced buffer for affordable housing is a departure from BAS that is not warranted given other alternatives like buffer averaging, clustering, and other housing types.

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	<p>In some cases, the applicant can choose not to conduct the critical areas report and use the following buffers:</p> <ul style="list-style-type: none"> • Category I: 300 feet • Category II: 100 feet • Category III: 75 feet • Category IV: 50 feet <p>Buffer widths may be reduced in urban areas for certain affordable housing projects.</p>	<p>buffer widths proposed for the urban area depart from BAS. At the same time, the County needs to meet housing targets within the Urban Growth Area. Affordable housing provision departs from BAS.</p> <p>The buffer reductions for affordable housing are a departure from BAS.</p>		
	Wetland Mitigation Ratios			
Page 238 Lines 5050-5062	<p>New mitigation ratios are proposed with an emphasis on:</p> <ul style="list-style-type: none"> • on-site mitigation over off-site mitigation. • mitigation within same drainage basin. • restoration of an existing wetland over wetland creation • creation over enhancement of an existing wetland. <p>Allows for reductions in mitigation ratios with:</p> <ul style="list-style-type: none"> • scientifically rigorous mitigation and monitoring program, or • 1 to 3 years of hydrologic data has been gathered for the site. 	<p>After the transmittal of this proposed ordinance, the state DOE published draft guidelines for wetland mitigation.</p> <p>The draft guidelines recommend mitigation ratios that are in some cases different from those in the Executive proposal, particularly with regard to ratios proposed for enhancement of existing wetlands, and the extent to which the existence of monitoring data should affect mitigation ratios.</p>	<p>Adds a new section that requires DNRP to evaluate the state DOE wetland mitigation guidelines and their applicability to unincorporated King County, taking into account land use patterns, basin conditions, and consistency with GMA goals and requirements.</p> <p>Requires transmittal of this evaluation and legislation updating mitigation requirements in consideration of the state Department of Ecology guidelines by June 1, 2005.</p>	<p>Regulatory consistency and efficiency (In some cases, developers need to address mitigation requirements for not only King County, but also other agencies like the Corps of Engineers.)</p>
	Effective Date			
P. 239, Line 5063	<p>The Executive-Proposed Ordinance did not set an effective date.</p>	<p>Public rules are needed to implement Rural Stewardship and Farm Plan provisions. Educational materials need to be developed or citizens and staff needs to be trained in the new standards.</p>	<p>Set an effective date of January 1, 2005.</p>	<p>Provides time for staff training and development of educational materials.</p>

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		Without specific effective date, the ordinance would become effective 10 days after signature by the Executive.		
	Finding Related to Environmental Review			
P. 239, Lines 5067 - 5071	NA	KCC 20.44.080 calls for finding related to environmental review.	Add finding.	Consistency with KCC 20.44.080.
	Development of Manuals and Customer Assistance Bulletins			
P. 239, Lines 5072-5082	NA	CAO regulations are very complex.	Require development and distribution of manuals and information bulletins by February 1, 2005.	The public needs easy access to summary information.